

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUGO LOPEZ-ORTIZ,

Defendant.

**8:18CR268**

**MEMORANDUM  
AND ORDER**

This matter is before the court on defendant Hugo Lopez-Ortiz's ("Lopez-Ortiz") Motion to Reconsider (Filing No. 61). Lopez-Ortiz asks the Court to reconsider its November 12, 2020, order (Filing No. 60) denying his motion to reduce his sentence under 18 U.S.C. § 3582(c)(2).

In civil cases, a motion to reconsider serves the limited purposes of correcting manifest factual or legal errors and presenting newly discovered evidence. *United States v. Luger*, 837 F.3d 870, 875-76 (8th Cir. 2016). The Eighth Circuit has so far declined to "decide whether to import the civil motion for reconsideration standard into the criminal context." *Id.* Lopez-Ortiz does not identify a legal basis for his motion but seeks to "correct a clear error or manifest injustice" in Court's November 12, 2020, order.

Even if the Court assumes that the civil standard applies in this case, Lopez-Ortiz does not demonstrate a manifest error of law or fact, nor does he present an argument based on newly discovered evidence. Lopez-Ortiz argues that the Court erroneously set his base offense level at 34 by using the 2012 version of the Drug Quantity Table in § 2D1.1 of United States Sentencing Guidelines ("Guidelines"). Thus, according to Lopez-Ortiz, the Court failed to apply Amendment 782 to the Guidelines. Amendment 782, effective November 1, 2015, lowered the base offense levels for most drug quantity offenses. Lopez-

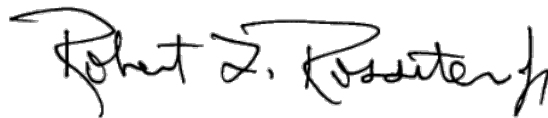
Ortiz argues that after Amendment 782, the Court should have set his base offense level at 32.

A review of the record shows the Court correctly set Lopez-Ortiz's base offense level at 34. The plea agreement states that "the parties agree that the defendant should be held responsible, beyond a reasonable doubt, for at least 500 grams but less than 1.5 kilograms of methamphetamine (actual)." Under the current version of § 2D1.1, which was in effect at the time of Lopez-Ortiz's sentencing, for drug quantities of "at least 500 G but less than 1.5 KG of Methamphetamine (actual)," the base offense level is 34.

Based on the foregoing, Lopez-Ortiz's Motion for Reconsideration (Filing No. 61) is denied.

Dated this 21st day of January 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
United States District Judge